U.S. Department of Labor

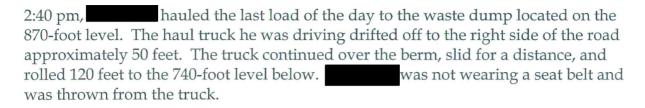
Mine Safety and Health Administration 1100 Wilson Boulevard Arlington, Virginia 22209-3939



JUN 2 0 2008

investigation,

MEMORANDUM FOR FELIX A. QUINTANA Administrator for Metal and Nonmetal Mine Safety and Health GEORGE M. FESAK George M. Fesak FROM: Director, Program Evaluation and Information Resources ALFRED B. BROOKS PLLIS BAND NO Medical Director, Office of Workers Compensation Programs EDWARD P. CLAIR Edward P. Clair Associate Solicitor for Mine Safety and Health JEFFREY A. DUNCA Director for Educational Policy and Development MARK E. SKILE Director of Technical Support SUBJECT: Fatality Review Committee Decision on Chargeability Case No.: M-2007-67 Deceased: Date of Incident: April 25, 2007 Date of Death: April 25, 2007 **Operator:** Riverton Investment Mine: Essroc Cement Corporation Corporation **Decision:** Chargeable In a unanimous decision, the Fatality Review Committee has determined that the death should be charged to the mining industry. According to MSHA's was an employee of the Essroc Cement Corporation mine. At



MSHA's accident investigators determined that the accident occurred because the deceased did not maintain control of the truck but they were unable to determine why he could not do so. The truck involved in the accident was inspected and no defects that would have caused to lose control of the truck were found.

The autopsy report concludes that died, "[a]s the result of multiple injuries sustained as the unrestrained driver involved in a single motor vehicle accident during work-related activity. The coroner proposed a possible contributory element, i.e. "sudden incapacitation due to severe atherosclerotic cardiovascular disease." This was based on the autopsy finding of severe two-vessel atherosclerotic coronary artery disease. However, postmortem examination of the heart revealed no evidence of a prior myocardial infarction, rupture of, or acute clot within a coronary artery, or anatomical abnormality that would predispose the employee to sudden death. An acute cardiac event is possible but without a prior history of sudden loss of consciousness, or an anatomical lesion or abnormality, such an event is unsupported supposition. As it stands there is no evidence to explain the apparent loss of control of the vehicle. Incapacitation as a result arteriosclerotic coronary disease is as unsupported as is the possibility of distraction, postprandial somnolence or driver error, as a potential cause of the accident.

In conclusion, the autopsy report does not present any supporting evidence that suffered a heart attack, or any other form of incapacitation, prior to or during the accident. Based on the autopsy report, the committee concluded that death was due to the accident and should be charged to the mining industry. The incidental finding of severe atherosclerosis is not sufficient to conclude that suffered a heart attack, causing him to lose control of his vehicle.

cc: Richard E. Stickler John Pallasch Robert M. Friend